IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 836 of 1983
WITH
SPECIAL CIVIL APPLICATION No 1583 of 1983
WITH
SPECIAL CIVIL APPLICATION Nos 1839 to 1849 of 1983
WITH
SPECIAL CIVIL APPLICATION No 1971 of 1983
WITH
SPECIAL CIVIL APPLICATION Nos 1974 to 1977 of 1983
WITH
SPECIAL CIVIL APPLICATION No 2376 of 1983
WITH
SPECIAL CIVIL APPLICATION Nos 5723 & 5724 of 1983
WITH
SPECIAL CIVIL APPLICATION No 310 of 1984
WITH
SPECIAL CIVIL APPLICATION No 575 of 1985
WITH
SPECIAL CIVIL APPLICATION No 3225 of 1985.

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

M/S. BHARAT SOLVENT PVT.LTD, A COMPANY INCORPORATED AND

Versus

THE STATE OF GUJARAT (NOTICE TO BE SERVED ON THE

Appearance:

1. In all matters except Special Civil Applns. Nos. 1971/1983, 2376/1983 and 3225/1985 -
   MR SHAURIN MEHTA for MR SI NANAVATI for petitioners
2. Special Civil Application No. 1971 of 1983
   MR NIRAV CHOKSHY for MR. PRASHANT G. DESAI for Petitioners
3. Special Civil Application No. 2376 of 1983
   MR CG MEHTA for Petitioner (absent)

4. Special Civil Application No. 3225 of 1985
   MR PM RAVAL for the petitioners (absent)
5. MISS NANDINI JOSHI, LD. AGP for respondent - State of Gujarat in all matters.

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 19/06/2003

ORAL COMMON JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

1. All these matters are disposed of by this common judgment as by an order dated 12/8/1985 learned Single Judge of this Court ordered to place all the matters before the Division Bench. It makes interesting reading, therefore, we have reproduced the same, which is as under:-

"Special C.A.s Nos.836/83, 1583/83, 1839/83, 1840/83, 1841/83, 1842/83, 3225/85, 1843/83, 1844/83, 1945/83, 1846/83, 1847/83, 1848/83, 1849/83, 1971/83, 1974/83, 1975/83, 1976/83, 1977/83, 2376/83, 4740/85, 5723/83, 5724/83 and 310/84.

Coram : A.P. Ravani, J.

(12/8/1985)

Oral Order :-

All these petitions arise out of the Gujarat Sales Tax Act. In fact in Special C.A. No. 1583 of 1983 at first page it was written by the petitioner "In the matter of Gujarat Sales

Tax Act, 1969". But for some reason it has been scored off.

When the matter came up for hearing before me and in fact after arguing the same for about two hours on different days, it has been pointed out to me that the matters are arising out of fiscal Acts and, therefore, should be heard by the Division Bench.

In the above view of the matter, all these matters are required to be placed before the Division Bench.

Sd/-

[A.P. Ravani, J.]"

2. It appears from the record of Special Civil Application No. 836 of 1983 that initially it was placed before the learned Single Judge of this Court on 23/2/1983 and it must have been pointed out to the learned Single Judge by the learned counsel for the petitioners that the said petition was identical to another writ petition i.e. Special Civil Application No. 552 of 1983, which was admitted by issuing rule and, therefore, on 23/2/1983 the learned Single Judge of this Court issued rule on it and ordered it to be heard with Special Civil Application No. 552 of 1983.

It was brought to our notice by the otherside that Special Civil Application No. 552 of 1983 was already dismissed by the learned Single Judge of this Court way back on 18/11/1983. Therefore, we have called for the original record of that petition from the office. From the original record of that petition it is clear that it was finally dismissed on 18/11/1983 by the learned Single Judge. Once that petition i.e. Special Civil Application No. 552 of 1983 was dismissed, then the Special Civil Application No. 836 of 1983 was also required to be dismissed for the reasons recorded by the learned Single Judge in terms of his order dated 18/11/1983.

From the original record of Special Civil Application No. 552 of 1983 we found that the said petition was ordered to be heard with Special Civil Application No. 3035 of 1982, which was dismissed by the Division Bench of this Court [Coram : R.K. Abichandani and D.H. Waghela, JJ.] on 16/3/2000.

3. We may state that another Special Civil Application No. 2849 of 1982 of identical nature was admitted on 16/7/1982 by the learned Single Judge of this Court and ordered to be heard with Special Civil

Application No. 4454 of 1981 and allied matters. Surprisingly Special Civil Application No. 4454 of 1981 was heard and dismissed by the Division Bench of this Court [Coram : K. Sreedharan, C.J. and M.S. Shah, J.] on 14/11/1997 but Special Civil Application No. 2849 of 1982 was not placed by the office alongwith Special Civil Application No. 4454 of 1981. Today, Special Civil Application No. 2849 of 1982 was disposed of by us in terms of the Division Bench judgment of this Court delivered on 14/11/1997 in Special Civil Application No. 4454 of 1981.

4. In the second sitting, when this group matters were taken up, it was brought to our notice that these matters are identical to Special Civil Application No. 2849 of 1982. We may state that when we were going through the order dated 12/8/1985 passed by the learned Single Judge in this group matters referring these matters to the Division Bench, Mr. Shaurin Mehta tried to submit that as per the roster these matters are not assigned to this Court, therefore, it may be placed before the concerned Court.

Similar objection was raised before the learned Single Judge on 12/8/1985 after two hours of arguments, which is clear from the referring order of the learned Single Judge passed on 12/8/1985 whereby all the matters were referred to the Division Bench. However, Ms. Nandini Joshi, Ld. AGP appearing for the respondent State of Gujarat in all these petitions submitted that as per the present roster, in addition to the Letters Patent Appeals arising from the service matters upto 2002 for admission and other work, this Court is also assigned the business of hearing other types of 20 years and more old Special Civil Applications for final hearing and all these matters are of the year 1983, therefore, they are placed before this Court for final disposal.

5. Like Special Civil Application No. 2849 of 1982 Mr. Mehta tried to argue the matters on merits which we have refused because identical writ petition i.e. Special Civil Application No. 552 of 1983 was dismissed long back by the learned Single Judge of this Court on 18/11/1983 and Special Civil Application No. 3035 of 1982 was dismissed by the Division Bench of this Court on 16/3/2000. Similarly Special Civil Application No. 4454 of 1981 with which Special Civil Application No. 2849 of 1982 was ordered to be heard, also came to be dismissed by another Division Bench of this Court [Coram : K. Sreedharan, C.J. and M.S. Shah, J. on 14/11/1997]. Therefore, all these petitions are also required to be

dismissed in terms of those judgments of the two Division Benches delivered on 16/3/2000 and 14/11/1997 respectively and the judgment of the learned Single Judge of this Court delivered on 18/11/1983 in Special Civil Application No. 552 of 1983.

6. Accordingly all these petitions are dismissed in terms of the aforesaid judgments of the two Division Benches one delivered on 14/11/1997 in Special Civil Application No. 4454 of 1981 and another delivered on 16/3/2000 in Special Civil Application No. 3035 of 1982 as well as in terms of the judgment of the learned Single Judge of this Court delivered on 18/11/1983 in Special Civil Application No. 552 of 1983. Rule discharged. Interim relief granted earlier in any of the petitions stands vacated forthwith subject to the undertaking or assurance given by them at the time of admission of the petitions. However, there shall be no order as to costs.

7. Before parting, we must state that if the office was more vigilant and careful, then all these matters would have been decided long back. Be that as it may. In future Registrar shall see to it that such thing is not repeated and necessary instructions be issued to the concerned departments of the office after obtaining necessary orders from the Hon'ble the Acting Chief Justice, if His Lordship deems fit. It may also be made clear that if the person concerned found negligent, then he may be suitably dealt with departmentally.

[B.J. SHETHNA, J.]

[AKSHAY H. MEHTA, J.]

* Pansala.